

**Report to:** PLANNING COMMITTEE  
**Date of Meeting:** 12 December 2018  
**Report from:** Assistant Director of Housing and Built Environment

**Application Address:** **Castleham Business Centre East, Stirling Road, St Leonards-on-sea, TN38 9NP**  
**Proposal:** **Installation of a 38.34kW Solar PV array on the roof**  
**Application No:** **HS/PA/18/00936**

**Recommendation:** **Prior Approval is required and is hereby given subject to conditions**

Ward: HOLLINGTON 2018  
Conservation Area: No  
Listed Building: No

Applicant: Hastings Borough Council Muriel Matters House  
Breeds Place Hastings TN34 3UY

**Public Consultation**

Site Notice: Yes  
Press Advertisement: No  
Letters of Objection: 0  
Petitions of Objection Received: 0  
Letters of Support: 0  
Petitions of Support Received: 0  
Neutral comments received 0

Application Status: Not delegated -  
Council Application

**1. Site and Surrounding Area**

The site comprises of a business centre in Maunsell Road, off Stirling Road. The surrounding area is mainly light industrial but also at a lower level and adjacent to the site is a residential area known as Swynford Drive, The Kestrels and The Finches.

Constraints

Land Owned, leased licensed or held by tenancy at will by HBC  
Flooding Surfacewater 1 in 1000  
Medium Pressure pipeline 25m buffer SGN

## 2. Proposed development

The application is made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Renewable Energy Part 14, Class J, for the installation of a 38.34kw solar PV array on the roof. The application requires the Local planning Authority to consider whether the development is 'permitted development' and to consider whether prior approval is required and given.

The solar panels proposed are Trina TSM - PD05 - Honey Module. The panels will be fitted to a support framework that angles the panels at 10° from the roof. In total there will be 142 Trina 270w panels, 71 panels will be facing east and 71 panels facing west positioned on the flat roof, within the parapet wall. There are existing skylights on the flat roof that cannot be seen from the adjacent roads or residential properties. The panels will be no higher than 31cm above the lowest part of the roof within the parapet wall.

The panels will be set from the roof edge no less than: 1m from the east side, 1m from the west side, 1.25m from the south side and 1.25m from the north side.  
Electricity generated will be 38.38Kw = 0.03834Mw,

The application is supported by the following documents:

Data sheet from Campbell Kennedy Energy Trina panels TSM - PD05

Statement on impact of glare

Design Narrative

Statement regarding construction works and hours

### Relevant Planning History

**Application No.** HS/FA/07/00868

**Description** New two storey building and associated parking to provide 17 new business incubation units.

**Decision** Permission with conditions on 07/12/07

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**Application No.** HS/FA/08/00305

**Description** Provision of biomass fuel boiler housed in existing boiler room, with flue extending 2m from the top of the building. Existing refuse store to be divided in two to accommodate wood fuel pellet store. New external pathway to rear of pellet store to access plant room. Provision of guard rail and access ladder to pellet store to allow safe access for delivery of the wood fuel.

**Decision** Permission with conditions on 23/06/08

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### Other Policies/Guidance

Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Renewable Energy Part 14, Class J .

### National Planning Policy Framework (NPPF)

A condition of the above permitted development is that the Local Planning Authority must when determining the application have regard to the NPPF as far as relevant to the subject matter of the prior approval, as if the application were a planning application:

Paragraphs 151; 152; 153 and 154 of section 14 of the NPPF are relevant. s14 of the NPPF sets out a general presumption in favour of sustainable development.

Paragraph 151 seeks LPA's to assist in increasing the use and supply of renewable and low carbon energy and heat, plans should:

a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts);

b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply

Paragraph 152. Requires local planning authorities to support community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning.

Paragraph 153. States that in determining planning applications, local planning authorities should expect new development to:

a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and

b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

Paragraph 154. States that when determining planning applications for renewable and low carbon development, local planning authorities should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

### **3. Consultations comments**

#### **Environmental Health - Contaminated Land - no objection with the following comments**

*I refer to the above Planning Application and I have no basic objection, however I would recommend the following advice:*

*The proposed construction works have the potential to cause disturbance through noise and dust which can impact on the people who live and work in the area. It is recommended that the applicant submits a plan detailing how the environmental impact of the construction work will be controlled and this is approved by the Local Planning Authority prior to the commencement of work.*

*Work which is audible at the site boundary and deliveries to and from the premises, during construction, shall not take place before 08:00 and after 18:00 hours Monday-Friday or before 08:00 and after 13:00 on Saturdays and at no time on Sundays or Bank Holidays.*

#### 4. Representations

No representations have been received as a result 2 site notices placed in Stirling Road and Swynford Drive, allowing for a 21 day consultation period. As the premises is not within the conservation area, no press notice was required.

#### 5. Determining Issues

**a) To ascertain whether the proposal is permitted development it is assessed to see if it complies with Class J, Part 14 of the General Permitted Development Order 2015 (as amended) – ' installation or alteration etc of solar equipment on non-domestic premises'.**

The application has been assessed under the relevant provisions of Schedule 2, Part 14, Class J of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended), as follows:

The table below sets out the criteria of Class J and whether the scheme complies with that criteria.

<b>J.1 Development is not permitted by Class J if:</b>	<b>Complies</b>	<b>Commentary</b>
(a) the solar PV equipment or solar thermal equipment would be installed on a pitched roof and would protrude more than 0.2 metres beyond the plane of the roof slope when measured from the perpendicular with the external surface of the roof slope;	Yes	The panels will be situated on a flat roof, within a parapet wall. See point B
(b) the solar PV equipment or solar thermal equipment would be installed on a flat roof, where the highest part of the solar PV equipment would be higher than 1 metre above the highest part of the roof (excluding any chimney);	Yes	The panels are being positioned on the flat roof, within the existing parapet wall. The panels will sit no higher than 31cm above the lowest part of the roof.
(c) the solar PV equipment or solar thermal equipment would be installed on a roof and within 1 metre of the external edge of that roof;	Yes	The dimensions from each edge of the roof are no less than: 1m from the east side, 1m from the west side, 1.25m from the south side and 1.25m from the north side.
(d) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a roof slope which fronts a highway;	Yes	Not in a conservation or on a roof slope.

(e) the solar PV equipment or solar thermal equipment would be installed on a site designated as a scheduled monument; or	Yes	Not Designated or scheduled monument, nor within a conservation area.
(f) the solar PV equipment or solar thermal equipment would be installed on a listed building or on a building within the curtilage of a listed building.	Yes	Not listed

<b>J.2 Development is not permitted by Class J(a) or (b) if:</b>	<b>Complies</b>	<b>Commentary</b>
(a) the solar PV equipment or solar thermal equipment would be installed on a wall and would protrude more than 0.2 metres beyond the plane of the wall when measured from the perpendicular with the external surface of the wall;	Yes	To be installed on a flat roof
(b) the solar PV equipment or solar thermal equipment would be installed on a wall and within 1 metre of a junction of that wall with another wall or with the roof of the building; or	Yes	To be installed on a flat roof
(c) in the case of a building on article 2(3) land, the solar PV equipment or solar thermal equipment would be installed on a wall which fronts a highway.	Yes	Not in a conservation area

<b>J.3 Development is not permitted by Class J(c) if:</b>	<b>Complies</b>	<b>Commentary</b>
the capacity of the solar PV equipment installed (together with any solar PV equipment installed under Class J(b)) to generate electricity exceeds 1 megawatt.	Yes	Electricity generated will be 38.38Kw = 0.03834Mw, under the maximum of 1 megawatt

The above assessment makes clear that the proposed development is permitted development provided it complies with a number of conditions. These are set out below or added to the recommended approval.

<b>J.4 Development is permitted by Class J subject to the following conditions:</b>	<b>Complies</b>	<b>Commentary</b>
(1) (a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited	Yes	The panels are to be situated on a flat roof,

<p>so as to minimise its effect on the external appearance of the building and the amenity of the area; and</p> <p>(b) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.</p>		<p>within an existing parapet wall.</p> <p>This condition will be added to the recommendation.</p>
<p>(2) Class J(c) development is permitted subject to the condition that before beginning the development the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land, and the following sub-paragraphs apply in relation to that application.</p>	<p>Yes</p>	<p>The applicant has submitted this application with all relevant documentation for assessment.</p>
<p>(3) The application must be accompanied by—</p> <p>(a) a written description of the proposed development;</p> <p>(b) a plan indicating the site and showing the proposed development;</p> <p>(c) the developer’s contact address; and</p> <p>(d) the developer’s email address if the developer is content to receive communications electronically;</p> <p>together with any fee required to be paid.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	
<p>(4) The local planning authority may refuse an application where, in the opinion of the authority—</p> <p>(a) the proposed development does not comply with, or</p> <p>(b) the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified in Class J applicable to the development in question.</p>	<p>N/A</p>	
<p>(5) Sub-paragraphs (6) and (8) do not apply where a local planning authority refuses an application under sub-paragraph (4) and for the purposes of section 78 (appeals) of the Act such a refusal is to be treated as a refusal of an application for approval.</p>	<p>N/A</p>	
<p>(6) The local planning authority must give notice of the proposed development—</p> <p>(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—</p>	<p>Yes</p>	<p>Two site notices giving details of the proposal and its location were placed in Stirling Road and Swynford Drive notifying</p>

<p>(i) describes the proposed development;  (ii) provides the address of the proposed development;  (iii) specifies the date by which representations are to be received by the local planning authority; or  (b) by serving a notice in that form on any adjoining owner or occupier.</p>		<p>neighbouring land and residents of the proposal and allowing for a 21 day consultation period, which expired on 22 November 2018 . No neighbour representations have been received as a result of that consultation.</p>
<p>(7) The local planning authority may require the developer to submit such information as the authority may reasonably require in order to determine the application.</p>	<p>Yes</p>	<p>Sufficient information has been submitted</p>
<p>(8) The local planning authority must, when determining an application—  (a) take into account any representations made to them as a result of any notice given under sub-paragraph (6); and  (b) have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012, so far as relevant to the subject matter of the prior approval, as if the application were a planning application.</p>	<p>Yes</p>	<p>No representations have been received.   All relevant parts of the NPPF have been taken into account and the application has been assessed in line with the criteria set out.</p>
<p>(9) The development must not begin before the occurrence of one of the following—  (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;  (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval; or  (c) the expiry of 56 days following the date on which the application under sub-paragraph (3) was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.</p>	<p>N/A   N/A   N/A</p>	
<p>(10) The development must be carried out—  (a) where prior approval is required, in accordance with the details approved by the local planning authority;  (b) where prior approval is not required, or where sub-paragraph (9)(c) applies, in accordance with the details provided in the application referred to in sub-paragraph (3), unless the local planning authority and the developer agree otherwise in writing.</p>	<p>N/A</p>	
<p>(11) The local planning authority may grant prior approval unconditionally or subject to conditions</p>	<p>Yes</p>	

reasonably related to the subject matter of the prior approval.		
(12) When computing the number of days in paragraph (6)(a), any day which is a public holiday must be disregarded.	N/A	

The above table sets out that the development is 'permitted development' subject to prior approval.

**b) Outcome of Prior Approval assessment**

This application is to determine whether Prior Approval is required and if so that prior approval is given. There are two areas that the LPA are permitted to consider in assessing such applications. The first is design and the second is external appearance.

The PV panels would be sited on a flat roof, within an existing parapet wall. It is considered that there will be no impact upon the external appearance of the building due to not being visible from the public realm. Having visited the site, there are existing skylights on the flat roof, which are not visible from the road or adjacent first floor properties. As such, it is considered that the proposed solar panels will also not be clearly visible from the road. There is a distance of approx. 18m to the nearest property at 26 Swynford Drive. Having visited the property and taken pictures from the first floor rooms, the flat roof was not visible, nor were the skylights. It is therefore considered that the solar panels will not impact upon these residential properties in Swynford Drive, The Kestrels or The Finches, due to the distance from the site to the estate, the height of the building in comparison the properties situated at a lower level in the Kestrels, and position and location of the panels sitting within the parapet wall, with no overhang.

Potential glare

The residential properties are to the south east of the site. 71 panels will face west and 71 will face east. Due to the location, height and position of the building. A statement has been submitted noting that any potential glare produced would only be visible from the east to north east in the morning and north west in the afternoon, and as such, it is considered that the panels will not cause harm to adjacent buildings or residential dwellings at the lower level in Swynford Drive, The Kestrels and The Finches. The application is considered acceptable in this respect.

Cable housing

All Solar PV related equipment, excluding the panels, will be housed within the building. There will be minimal visibility of cabling on the roof as all cables connecting the panels are housed under the panels, resulting in only a few cables needing to be run from one panel into the building.

Hours and construction work

Environmental Health has requested an informative note to deal with matters of noise and dust. This is added to the recommendation. It is noted that the only machinery used will be 18V cordless power tools.

A statement in response to Environmental health's comments has also been submitted, detailing the level of construction works, which is as follows:

*There will be no penetration of the roof as the panels and mounting system will be secured by the use of ballast, and the weight of said panels/mounting system. As such construction of the solar array will only require the use of 18V cordless power tools and therefore there will be very little dust and any noise will be minimal. The only penetration required will be to run cables, and this will involve only minimal drilling resulting in a small amount of dust and noise.*

*I can confirm that any work which is audible at the site boundary, and deliveries to and from the premises, during construction, shall not take place before 08:00 or after 18:00 hours Monday-Friday or before 08:00 and after 13:00 on Saturdays and at no time on Sundays or Bank Holidays.*

No neighbour representations have been received as a result of that consultation, in the form of the two site notices placed in Breeds place and Castle Hill Road.

The NPPF has been taken into account: Para's 151; 152; 153 and 154 of section 14 of the NPPF state that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

#### c) Constraints

Due to the position and nature of the works, none of the constraints above will be affected.

#### d) Screening of Application under Habitats Regulations 2017 - Impact of Development on Ashdown Forest Special Area Conservation ( SAC)

Not relevant for this type of application

## **6. Conclusion**

As set out above the proposal meets all the criteria and conditions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Renewable Energy Part 14, Class J and as such, the Council recommend that prior approval be given subject to conditions.

The Human Rights considerations have been taken into account fully in balancing the planning issues.

## 7. Recommendation

**Prior Approval is required and is hereby given subject to the following conditions:**

1. (a) the solar PV equipment or solar thermal equipment must, so far as practicable, be sited so as to minimise its effect on the external appearance of the building and the amenity of the area; and  
(b) the solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed.
2. With the exception of internal works the building works required to carry out the development allowed by this permission must only be carried out within the following times:-  
  
08.00 - 18.00 Monday to Friday  
08.00 - 13.00 on Saturdays  
No working on Sundays or Public Holidays.

### **Reasons:**

1. To ensure that the proposed development falls within the limit of permitted development within Class J of Part 14 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)
2. To safeguard the amenity of adjoining residents.

### **Note to the Applicant**

1. The applicant is advised that great consideration should be given in the interest of the neighbouring amenity, in regards to potential noise and dust that may be generated through the construction works.
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### **Officer to Contact**

Mrs M Botting, Telephone 01424 783252

### **Background Papers**

Application No: HS/PA/18/00936 including all letters and documents

